IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

PRESENT
THE HON'BLE MR JUSTICE R.SUBHASH REDDY
WRIT PETITION NO : 28342 of 1997

Dated 7th February, 2007

Between
B.Janardhan Goud and ors

...Petitioner

and

The Revenue Divisional Officer, Madanapalle,
Chittoor District and ors

...Respondents.

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION NO :28342 of 1997

ORDER:

The petitioners are the owners and possessors of the land admeasuring Ac.1.58 cents, Ac.1.48 cents, and Ac.2.78 cents covered by Sy. Nos. 66/4, 66/5 and 68 respectively, of Baireddypalle village in Chittoor District. The above said lands were notified for acquisition in the year 1985 for the purpose of providing house sites to the weaker section people of Baireddypalle village and after conducting necessary enquiry, the Land Acquisition Officer passed Award on 7-1-1985 vide Award No. 9/84-85. Notice as contemplated under Section 12(2) of the Land Acquisition Act, 1894 was issued to the petitioners and the petitioners received such notice on 24-4-1985. It is the case of the petitioners that though they claimed

compensation of Rs.2,00,000/- per acre and Rs.32,000/- for the tamarind trees existing on the above said land, but, the Land Acquisition Officer had awarded total compensation of Rs. 56,856/- only. It is stated that, thereafter, the petitioners had filed an application under Section 18 of the Act before the Land Acquisition Officer stating that the compensation awarded is too low and sought reference to the Civil Court for determination of the proper compensation. It is stated that the said application dated 30-4-1985 sent through registered post was received in the office of the respondents on 20-5-1985. However, as much as there was a dispute with regard to apportionment of the compensation, the matter was referred under Section30 and 31(2) of the Act to the Court of Principal Subordinate Judge, Chittoor and the same was decided in O.P.No. 26 of 1985 by judgment dated 14-5-1997 confirming the title and entitlement of the petitioners for receipt of the compensation. It is the grievance of the petitioners that even thereafter, though they have made another representation on 2-9-1997 to refer their application dated 30-4-1985 made under Section 18 of the Act to the Civil Court for determination of proper market value, no such reference was made to the Civil Court. Hence, they sought for a direction to refer the matter to Civil Court under Section 18 of the Land Acquisition Act, 1894, in this writ petition.

In the counter affidavit filed on behalf of the respondents, it is stated that award was passed on 7-1-

1985 vide Award No.9/84-85, but not on 24-4-1985 as stated by the petitioners. While admitting that the petitioners have filed an application on 25-5-1985 for reference under Section 18 of the Act, for fixation of the proper market value of the acquired lands, but however, it is stated, the said application is time barred, as much as the application was not filed within the period of six weeks from the date of passing the award, i.e. on 7-1-1985. It is further stated that the compensation was properly fixed taking into consideration the sales statistics of the preceding three years to the date of notification available in the Sub-Registrar's office.

The petitioners have filed a copy of the application, which was filed under Section 18 of the Land Acquisition Act, 1894, wherein they have stated that they have claimed compensation of Rs.2,00,000/- per acre and Rs.32,000/- for the tamarind trees. Further, it is stated in the said application that the compensation of Rs.56,856/- awarded for the entire land is too low and the matter should be referred to the Civil Court for determination of the proper compensation. Though in the affidavit filed in support of the Writ Petition it is stated that the award was passed on 24-4-1985, but, however in the application it is clearly stated that they have received notice of award, issued under Section 12(2) of the Land Acquisition Act, 1894, on 24-4-1985. In the counter affidavit, it is not disputed that their application for reference dated 30-4-1985 was received in the office of the respondents on 25-5-1985. It is the case of the respondents that as much as the award was passed on

7-1-1985, and, as the very application dated 30-4-1985 was received in the office of the respondents on 25-5-1985, the same is beyond the period of limitation of six weeks from the date of the award as prescribed under Section 18 of the Land Acquisition Act, 1894. It is to be noted, that though award had been passed on 7-1-1985, but in the petition filed under Section 18 of the Land Acquisition Act, the petitioners have specifically stated that notice of award issued under Section 12(2) of the Act was received on 24-4-1985. It is fairly well settled that when the landholders are not present in person or by their representatives when the award is passed by the Land Acquisition Officer, the limitation for filing a petition under Section 18 of the Land Acquisition Act has to be reckoned from the date of receipt of notice under Section 12(2) of the Act. In this case, notice under Section 12(2) of the Act had been received by the petitioners on 24-4-1985. As much as the respondents have received the Section 18 application of the petitioners dated 30-4-1985 in their office on 25-5-1985 only, there is no reason at all for not referring the matter to the competent civil Court.

Though there was some delay on the part of the petitioners in approaching this court, but it is stated in the affidavit filed in support of the Writ Petition, that in view of the rival claims, the matter was referred to civil court under Section 30 and 31(2) of the Land Acquisition Act and ultimately, the same was decided in OP.No.26 of 1985 by judgment dated 14-5-1997. Even thereafter also, by making one more representation on 2-9-1997, the petitioners have

requested the Land Acquisition Officer to refer the matter under Section 18 of the Act to competent Civil Court. When there was no response from the respondents, thereafter only, the petitioners have filed this Writ Petition. As much as the petitioners have filed the application under Section 18 of the Act to refer the matter to civil court for determination of the proper compensation within the period of six weeks from the date of receipt of notice under Section 12(2) of the Act, there is no valid reason at all for keeping the application pending without referring the same to the competent civil Court.

For the aforesaid reasons, I allow the Writ Petition and direct the respondents to refer the application of the petitioners dated 30-4-1985, which was filed under Section 18 of the Land Acquisition Act, 1894 seeking reference to competent Civil Court pursuant to Award No.9/84-85, dated 7-1-1985, within a period of eight weeks from the date of receipt of a copy of this order.

The Writ petition is accordingly allowed. No order as to costs.

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JUSTICE R. SUBHASH REDDY

DATE: 07-12-2007.
Msnr.